

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Alan BARRETT et al.

Serial No.: 10/524,939

Filed: August 18, 2003

For: COMPOSITIONS AND METHODS  
RELATED TO FLAVIVIRUS ENVELOPE  
PROTEIN DOMAIN III ANTIGENS

Group Art Unit: 1648

Examiner: Stacy Brown Chen

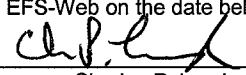
Atty. Dkt. No.: UTSG:260US

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37 C.F.R. § 1.8

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June 2, 2010  
Date

  
Charles P. Landrum

**APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Applicants request a reconsideration of patent term adjustment (PTA) under 37 C.F.R. §§1.705(b). The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) included with the Notice of Allowance and Issue Fee Transmittal dated March 2, 2010 indicates a patent term adjustment of 0 days. Applicants believe there was a miscalculation of Patent Office delay which is the subject of this request.

### REMARKS

Pursuant to 37 C.F.R. § 1.702(a)(1), Applicants are entitled to an adjustment of patent term due to examination delay if the Patent Office fails to mail an action under 35 U.S.C. § 132 not later than 14 months after the date on which the application fulfilled the requirements of 35 U.S.C. § 371 in an international application. Applicants note that the Patent Term Adjustment sheet available on PAIR does not indicate any Patent Office delay for failure by the Patent Office to mail an action under 35 U.S.C. § 132 not later than 14 months after the filing date. Applicants believe this to be an error and assert the Patent Office is using an incorrect 35 U.S.C. § 371(c) date.

A Notification of Missing Requirements was mailed on August 8, 2007. A Response to the Notification was filed on October 8, 2007, which included a declaration of the inventors and a copy of the Sequence Listing in computer readable form. Upon receipt of these items, the application had fulfilled the requirements of 35 U.S.C. § 371. However, the Patent Office inadvertently mailed a second Notification of Missing Requirements on February 14, 2008, requesting the same items. A Response was filed on March 4, 2008, indicating these items had already been provided but resubmitted them for the convenience of the Patent Office. The 35 U.S.C. 371(c) date should be October 8, 2007, rather than March 4, 2008. Therefore, the period of Patent Office delay should have been calculated to begin 14 months after October 8, 2007 (the date that the application satisfied all 371(c) requirements) which is December 8, 2008. The Patent Office period of delay from December 8, 2008 to February 12, 2009 (the date of mailing of the first action under 35 U.S.C. 132) is 66 days. Applicants respectfully request an adjustment of Office Delay from 0 days to 66 days.

To calculate the period of patent term adjustment, the total period of Office Delay is reduced by the period of Applicant Delay, which the Office correctly calculated as a period of 68 days.

Accordingly, Applicants submit that the correct patent term adjustment for the above-referenced application is 0 days.

In view of the foregoing, it is respectfully requested that this Request for Reconsideration of Patent Term Adjustment be favorably considered and that a corrected Determination of Patent Term Adjustment be issued to reflect a patent term adjustment of 0 days. Although the total patent term adjustment remains 0 days, Applicants are making this request because they believe they will be entitled to additional patent term adjustment upon issuance.

### CONCLUSION

In consideration of the events described above, Applicants believe the calculation of Office delay of 0 days is incorrect. As such, Applicants respectfully request reconsideration of the PTA in the following manner:

- 1) Total Office delay should be calculated as 66 days;
- 2) Total Applicant delay should be calculated as 68 days; and
- 3) Total PTA should be calculated as 0 days.

The required fee in the amount of \$200.00 in connection with the filing of this paper is being charged to a credit card through EFS-Web concurrently with this submission. The Commissioner is hereby authorized to deduct any underpayment of fees or any additional fees required under 37 C.F.R. §§ 1.16 to 1.21 in connection with the filing of this paper from Fulbright & Jaworski Deposit Account No.: 50-1212/UTSG:260US.

Respectfully submitted,



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